

Senate Bill No. 1446

CHAPTER 58

An act to amend Sections 32310, 32400, 32405, 32410, 32425, 32430, 32435, and 32450 of, to add Section 32406 to, and to repeal Section 32420 of, the Penal Code, relating to firearms.

[Approved by Governor July 1, 2016. Filed with Secretary
of State July 1, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1446, Hancock. Firearms: magazine capacity.

(1) Existing law prohibits the sale, gift, and loan of a large-capacity magazine. A violation of this prohibition is punishable as a misdemeanor with specified penalties or as a felony.

This bill would, commencing July 1, 2017, make it an infraction punishable by a fine not to exceed \$100 for the first offense, by a fine not to exceed \$250 for the 2nd offense, and by a fine not to exceed \$500 for the 3rd or subsequent offense, for a person to possess any large-capacity magazine, regardless of the date the magazine was acquired. The bill would require a person in lawful possession of a large-capacity magazine prior to July 1, 2017, to dispose of the magazine, as provided.

By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law creates various exceptions to the crime described in paragraph (1) above, which include, but are not limited to, the sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by the holder of a special weapons permit for use as a prop for a motion picture, or any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

This bill would make conforming changes to those exceptions by including possession of a large-capacity magazine in those provisions and would establish additional exceptions to the crime described in paragraph (1) above, including exceptions to allow licensed gunsmiths and honorably retired sworn peace officers to possess a large-capacity magazine.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 32310 of the Penal Code is amended to read:

32310. (a) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.

(b) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing July 1, 2017, any person in this state who possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100) upon the first offense, by a fine not to exceed two hundred fifty dollars (\$250) upon the second offense, and by a fine not to exceed five hundred dollars (\$500) upon the third or subsequent offense.

(c) A person who, prior to July 1, 2017, legally possesses a large-capacity magazine shall dispose of that magazine by any of the following means:

- (1) Remove the large-capacity magazine from the state.
- (2) Prior to July 1, 2017, sell the large-capacity magazine to a licensed firearms dealer.
- (3) Destroy the large-capacity magazine.
- (4) Surrender the large-capacity magazine to a law enforcement agency for destruction.

(d) For purposes of this section, “manufacturing” includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine.

(e) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

SEC. 2. Section 32400 of the Penal Code is amended to read:

32400. Section 32310 does not apply to the sale of, giving of, lending of, possession of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

SEC. 3. Section 32405 of the Penal Code is amended to read:

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, possession of, or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter

4.5 (commencing with Section 830) of Title 3 of Part 2, or a sworn federal law enforcement officer who is authorized to carry a firearm in the course and scope of that officer's duties.

SEC. 4. Section 32406 is added to the Penal Code, to read:

32406. Subdivisions (b) and (c) of Section 32310 do not apply to the following:

(a) An individual who honorably retired from being a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or an individual who honorably retired from being a sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. For purposes of this section, "honorably retired" has the same meaning as provided in Section 16690.

(b) A federal, state, or local historical society, museum or institutional society, or museum or institutional collection, that is open to the public, provided that the large-capacity magazine is unloaded, properly housed within secured premises, and secured from unauthorized handling.

(c) A person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition, and possessed it no longer than necessary to deliver or transport it to the nearest law enforcement agency.

(d) A forensic laboratory, or an authorized agent or employee thereof in the course and scope of his or her authorized activities.

(e) The receipt or disposition of a large-capacity magazine by a trustee of a trust, or an executor or administrator of an estate, including an estate that is subject to probate, that includes a large-capacity magazine.

(f) A person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds 10 or fewer rounds of ammunition is compatible with that firearm and the person possesses the large-capacity magazine solely for use with that firearm.

SEC. 5. Section 32410 of the Penal Code is amended to read:

32410. Section 32310 does not apply to the possession, sale, or purchase of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

SEC. 6. Section 32420 of the Penal Code is repealed.

SEC. 7. Section 32425 of the Penal Code is amended to read:

32425. Section 32310 does not apply to either of the following:

(a) The lending or giving of any large-capacity magazine to, or possession of that magazine by, a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

SEC. 8. Section 32430 of the Penal Code is amended to read:

32430. Section 32310 does not apply to the possession of, importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section

32315, when those activities are in accordance with the terms and conditions of that permit.

SEC. 9. Section 32435 of the Penal Code is amended to read:

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, possession of, importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, and the possession of those large-capacity magazines by those authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in subdivision (b).

SEC. 10. Section 32450 of the Penal Code is amended to read:

32450. Section 32310 does not apply to the purchase or possession of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division, for any of the following purposes:

(a) For use solely as a prop for a motion picture, television, or video production.

(b) For export pursuant to federal regulations.

(c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.